



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2013-0808; FRL-9932-50-Region 6]

**Approval and Promulgation of Implementation Plans; Texas; Infrastructure Requirements
for the 1997 Ozone and the 1997 and 2006 PM_{2.5} NAAQS**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing a change to the Code of Federal Regulations (CFR) to reflect a 2014 EPA approval to a State Implementation Plan (SIP) revision to regulate greenhouse gases (GHGs) in Texas Prevention of Significant Deterioration (PSD) permitting program and to show that the SIP deficiency identified in a prior partial disapproval for the 1997 Ozone and the 1997 and 2006 PM_{2.5} National Ambient Air Quality Standards (NAAQS) has been addressed.

DATES: This rule is effective on **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** without further notice, unless EPA receives relevant adverse comment by **[INSERT DATE 30 DAYS AFTER DATE OF**

PUBLICATION IN THE FEDERAL REGISTER]. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket No. EPA-R06-OAR-2013-0808, by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions.

- E-mail: Carl Young at *young.carl@epa.gov*.

- Mail or delivery: Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

Instructions: Direct your comments to Docket ID No. EPA-R06-OAR-2013-0808. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit electronically any information that you consider to be CBI or other information whose disclosure is restricted by statute. The *http://www.regulations.gov* website is an “anonymous access” system, which means that the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to the EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends

that you include your name and other contact information in the body of your comment along with any disk or CD-ROM submitted. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional information on submitting comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.*, copyrighted material), and some may not be publicly available at either location (*e.g.*, CBI).

FOR FURTHER INFORMATION CONTACT: Carl Young, 214-665-6645, young.carl@epa.gov. To inspect the hard copy materials, please schedule an appointment with Mr. Young.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

I. Background

In an action on April 4, 2008, we partially approved and partially disapproved the portions of a Texas SIP submittal for the 1997 ozone and 1997 PM_{2.5} NAAQS pertaining to prevention of significant deterioration (PSD) permitting (76 FR 81371, December 28, 2011). Our partial disapproval was based on the fact that at the time the Texas SIP did not regulate greenhouse gases (GHGs) in the PSD permitting program. Afterwards Texas revised the SIP to regulate GHGs in their PSD permitting program. We approved this revision in 2014 (79 FR 66626, November 10, 2014). Now that Texas has a fully approved SIP for PSD permitting, the deficiency that led to our December 28, 2011 partial disapproval has been addressed. However, in our approval of the GHG program, we did not revise the CFR to reflect that the deficiency had been addressed. We are correcting that oversight in today's action.

II. Final Action

Using our authority under 110(k)(6) of the Act, we are finalizing a change to 40 CFR 52.2270(c) to reflect a 2014 EPA approval to a SIP revision to regulate GHGs in Texas' PSD permitting program and to show that the SIP deficiency identified in our prior partial disapproval for the 1997 Ozone and the 1997 and 2006 PM_{2.5} NAAQS has been addressed.

EPA is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** without further notice unless we receive relevant adverse comment by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE**

FEDERAL REGISTER]. If we receive relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive relevant adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely revises the CFR to reflect a 2014 EPA approval to a SIP revision to regulate GHGs in Texas PSD permitting program and to show that the SIP deficiency identified in a prior partial disapproval for the 1997 Ozone and the 1997 and 2006 PM_{2.5} National Ambient Air Quality Standards (NAAQS) has been addressed. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone,
Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 26, 2015.

Ron Curry,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart SS – Texas

2. The second table in §52.2270(e) titled “EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP” is amended by revising the entry for “Infrastructure and Interstate Transport for the 1997 Ozone and the 1997 and 2006 PM_{2.5} NAAQS”.

The revision reads as follows:

§ 52.2270 Identification of plan.

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(e) * * *

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP

Name of SIP provision	Applicable geographic or non-attainment area	State approval/ submittal date	EPA approval date	Comments
* * * * *				

Infrastructure and Interstate Transport for the 1997 Ozone and the 1997 and 2006 PM _{2.5} NAAQS	Statewide	12/12/2007, 3/11/2008, 4/4/2008, 11/23/2009	12/28/2011, 76 FR 81371	Approval for CAA elements 110(a)(2)(A), (B), (E), (F), (G), (H), (K), (L), and (M). Full approval for CAA elements 110(a)(2)(C), (D)(i)(II), (D)(ii) and (J) with approval of the GHG PSD revision (11/10/2014, 79 FR 66626).
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